IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 9595 of 2006(P)

PETITIONER:

BINDHU M., (ON DEPUTATION FOR TRAINING),
DRAFTSMAN GRADE-I, P.W.D.ROADS DIVISION,
ERNAKULAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SMT.C.V.RAJALAKSHMI
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV

RESPONDENTS:

STATE OF KERALA, REP. BY THE SECRETARY,
PUBLIC WORKS (A) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE ORDER G.O.(P) NO.303/70/FIN. DATED 12.5.1970

EXT.P2- TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE RESPONDENT DATED 15.5.2002

EXT.P3- TRUE COPY OF THE RECOMMENDATION NOTE WRITTEN BY THE CHIEF ENGINEER (ROADS & BUILDINGS) DATED 20.6.2006

EXT.P4- TRUE COPY OF THE RECOMMENDATION LETTER NO.E3B4-1165/2002 DATED 27.6.2002 GIVEN BY THE CHIEF ENGINEER, P.W.D. ADMINISTRATION.

EXT.P5- TRUE COPY OF THE ORDER G.O.(Rt) NO.917/2002/PWD DATED 3.10.2002

EXT.P6- TRUE COPY OF THE REQUEST MADE BY THE PETITIONER BEFORE THE RESPONDENT DATED 28.7.2005

EXT.P7- TRUE COPY OF THE ORDER G.O.(Rt) NO.1071/05/PWD DATED 25.11.2005

EXT.P8- TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE RESPONDENT DATED 19.12.2005

(TRUE COPY)

P.A TO JUDGE

K.K. DENESAN. J.

W.P.(C) No.9595 of 2006-P.

Dated this the 30th day of January, 2007.

JUDGMENT

The challenge is to Ext.P7 Government order dated 25-1-2005 by which Ext.P5 order passed by the Government on 3-10-2002 has been cancelled and the benefit of study leave earlier granted has been withdrawn. One of the main contentions urged by the petitioner is that Ext.P7 is vitiated by gross violation of the principles of natural justice. I am impressed by the above submission made by the counsel for the petitioner.

2. I have heard the Government Pleader for the respondents.

3. Ext.P7, on the very face of it, makes it clear that Ext.P5 order passed on 3-10-2002, by which the Government, after considering all relevant facts including the academic records of the petitioner, was pleased to depute her for training in I.I.T., Bombay in relaxation of the rule for the grant of study leave so far as it concerns the requirement of minimum period of service, but without payment of salary or other financial benefits for a period of three years. Subsequently, by Ext.P7,

the above sanction stands cancelled. Counsel for the petitioner submits that there are good grounds to sustain Ext.P5 order and if the petitioner was afforded an opportunity of being heard, the Government would not have passed Ext.P5 order.

4. Cancellation of Ext.P5, behind the back of the petitioner is illegal. I am, therefore, inclined to set aside Ext.P7 order. I do so. The Government shall issue notice to the petitioner before any order adverse to her is passed. Representation, if any, filed by the petitioner in reply to the notice shall be considered by the Government and appropriate decision taken uninfluenced by the reasons stated in Ext.P7. Certainly, the contentions of the petitioner shall be adverted to and a speaking order passed, in accordance with law. The above exercise shall be completed within three months from the date of receipt of a copy of this Judgment.

The writ Petition is allowed as above.

K.K. DENESAN, JUDGE.

kvs/-